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Filing date: **08/06/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91171193
Party	Plaintiff Bernardaud Porcelaines De Limoges, S.A.
Correspondence Address	Bruce S. Londa Norris, McLaughlin & Marcus, P.A. 875 Third Avenue New York, NY 10022 UNITED STATES bslonda@nmmlaw.com
Submission	Reply in Support of Motion
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Date	08/06/2007
Attachments	00104442.pdf (27 pages)(309602 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application no. 78641279 for **BERNARDO**

BERNARDAUD PORCELAINES
DE LIMOGE S.A.,

Opponent,

-v-

Ashley Nettye, Inc.

Applicant

Opposition no. 91171193

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513
BOX TTAB / NO FEE

OPPONENT'S REPLY TO APPLICANT'S OPPOSITION TO MOTION FOR
SUMMARY JUDGMENT

Bernardaud Porcelaines de Limoges S.A.. ("Opposer") hereby submits the following reply to Applicant's brief in opposition to Opposer's Motion for Summary Judgment. This reply brief is limited to points newly raised in Applicant's brief.

In its brief, Applicant takes the position that the supporting Kakaty declaration is deficient in that it (1) fails to allege personal knowledge of the facts recited and (2) fails to provide specific sales data supporting use of the mark.

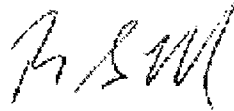
In reply, it is submitted that Applicant's point (1) is a matter of form over substance. The declarant states that he is the president of the U.S. subsidiary, and that all statements made of personal knowledge are true. Nevertheless, in order to allow the

Board to focus on the substance of this case, a Supplemental Declaration of George Kakaty is submitted herewith, in which the declarant specifically sets forth the basis of his knowledge.

As to point (2), the original Kakaty declaration did not provide specific sales data as there was no protective order in place. As the parties had not engaged in discovery, there had been no prior reason to have entered in a protective order. Concurrently herewith, a stipulated protective order is being submitted. Accordingly, Opposer is now able to supplement the Kakaty declaration with specific sales data. Unredacted exhibits will be filed separately under seal.

Wherefore, it is requested that the Supplemental Declaration of Kakaty be accepted and taken into consideration by the Board in deciding Opposer's motion for summary judgment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. S. Londa', written in a cursive style.

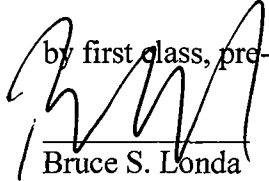
Bruce S. Londa
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CERTIFICATE OF SERVICE

I hereby certify that the within motion was served on counsel for applicant:

JONATHAN E. MOSKIN
WHITE & CASE LLP
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

 by first class, pre-paid U.S. Postal Service, on the date listed below.
Bruce S. Londa

Date: August 6, 2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application no. 78641279 for **BERNARDO**

**BERNARDAUD PORCELAINES
DE LIMOGES, S.A.,**

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Assistant Commissioner for Trademarks
2900 Crystal Drive
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**SUPPLEMENTAL DECLARATION OF GEORGE J. KAKATY IN SUPPORT OF
OPPONENT'S MOTION FOR SUMMARY JUDGMENT**

I am George J. Kakaty, President for the North American subsidiary of Bernardaud Porcelaines de Limoges, S.A., having a business address at 499 Park Avenue, New York, NY. I was employed by the Plaintiff from 1988 until 1993, when I left to join an affiliated company. I rejoined the company in November 2006 as President. I make this declaration in support of Opponent's Motion for Summary Judgment, based on my personal knowledge and/or information and belief, and/or based on my personal review of the business records referred to herein.

1. This history of Opponent ("Bernardaud") dates back to 1863 in France. Bernardaud is the leading manufacturer and exporter of porcelain in France. Today,

Bernardaud is among an elite group of world-renowned French luxury houses and is one of seventy selected members of the prestigious Comité Colbert, an association dedicated to the promotion of the unique excellence of French luxury goods around the world. By virtue of its excellence, Bernardaud has been able to use modern styling in order to bring porcelain into new territory, extending from its origins in dinnerware to jewelry and objects of art for the home. Selected pages of Bernardaud's jewelry catalog are attached hereto as Exhibit 1.

2. Bernardaud introduced porcelain dinnerware into the United States in 1905, and has been selling here continuously. Porcelain jewelry was introduced into the United States in 1998. While its home is in France, Bernardaud's exports now account for more than 70% of total sales, with North America being the largest and most successful region. As of 2003, consolidated revenue was about 45 million euros. Current annual U.S. sales for all branded goods are in the millions of dollars. Exhibit 2 sets forth annual sales for all branded goods for the years 2005-7. While jewelry accounts for only a fraction of overall sales compared to dinnerware, sales of BERNARDAUD branded jewelry in the United States have increased steadily year after year. Exhibit 3 sets forth annual sales for BERNARDAUD branded jewelry in the U.S. for the years 2004-7. The suggested retail price of the jewelry pieces ranges from \$95 to \$410.

3. Bernardaud sells its goods in its own boutiques in New York (Park Avenue) and Chicago (Michigan Avenue), as well as through high-end retailers such as jewelry (including in-hotel) stores and department stores, such as Macy's, Neiman-

Marcus and Bloomingdales. Bernardaud advertises its goods through local (such as Chicago Magazine and New York Times supplements) and national print media such as magazines.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Dated: August 6, 2007



Signature

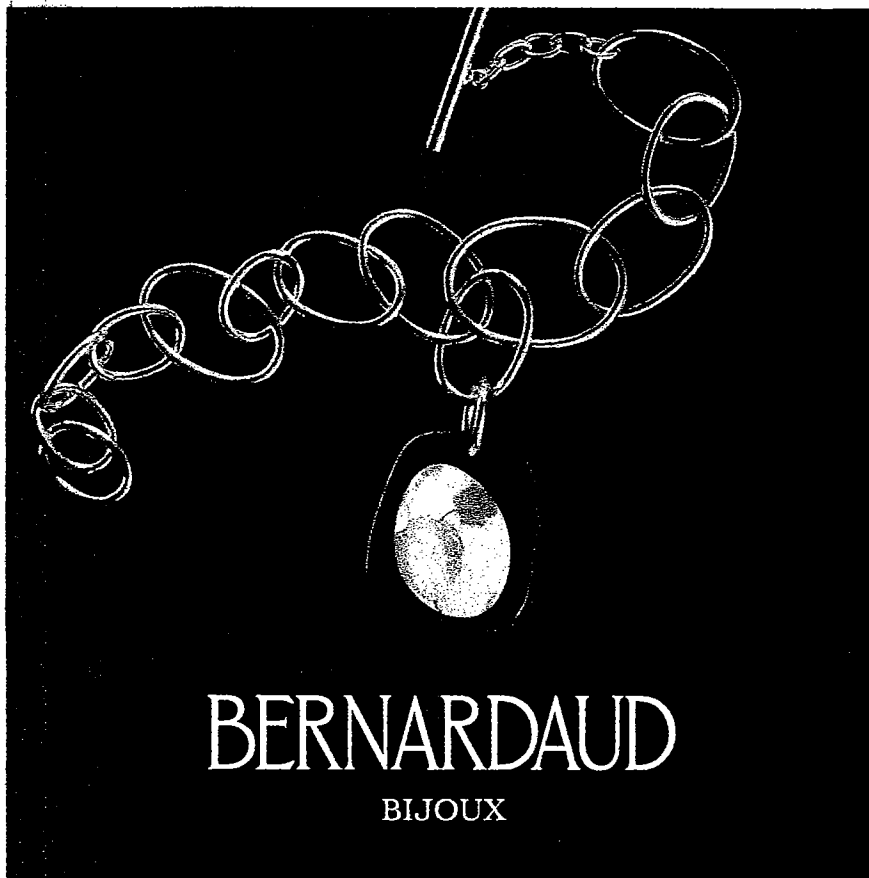
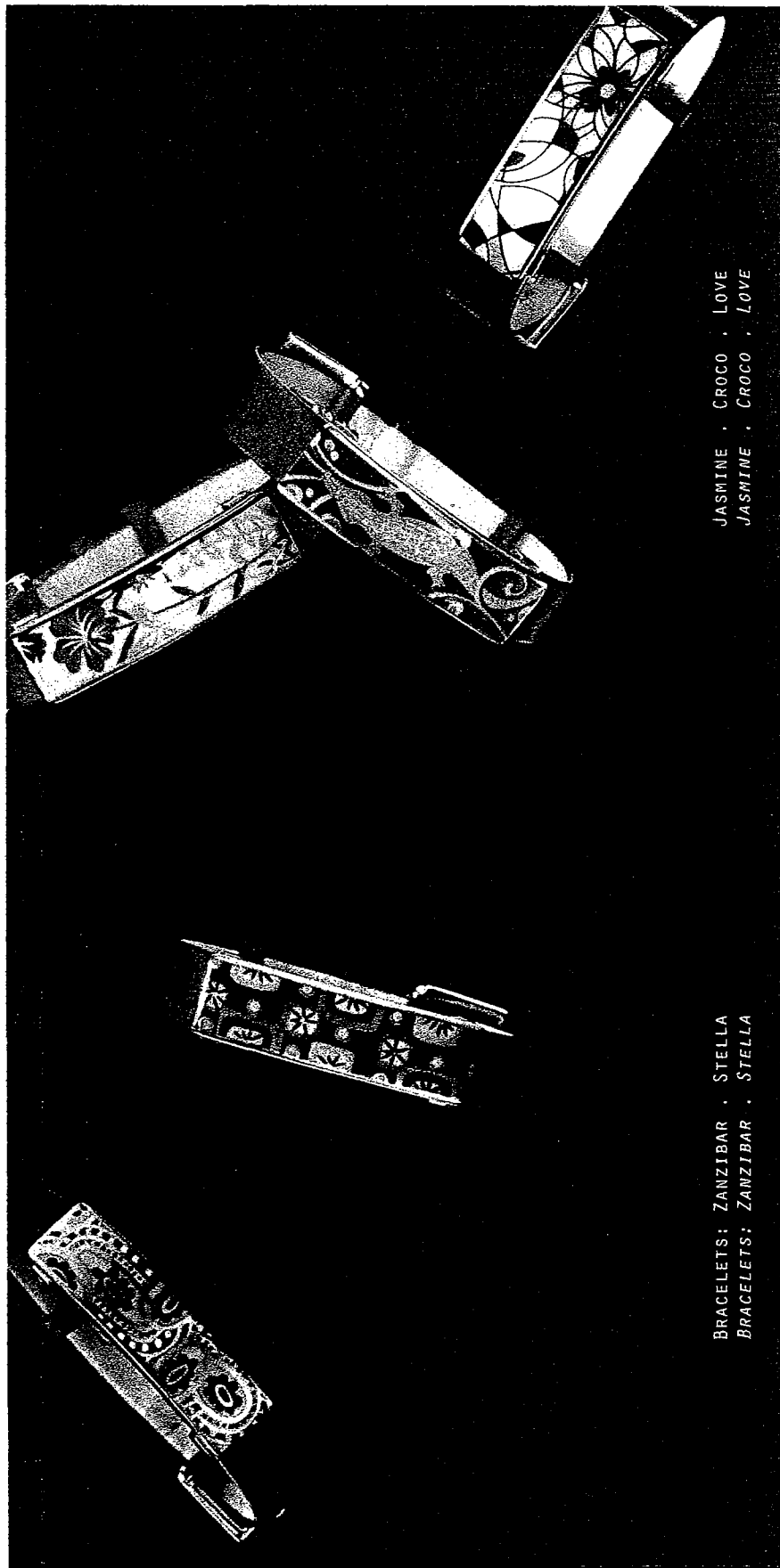


EXHIBIT 1



JASMINE · CROCO · LOVE
JASMINE · CROCO · LOVE

BRACELETS: ZANZIBAR · STELLA
BRACELETS: ZANZIBAR · STELLA

POP • HAWAII • FOR EVER NOIR/BLACK • COLOWBINE

Boutiques Bernardaud

PARIS 1^{er} Carrousel du Louvre 99 rue de Rivoli Tél : 01 42 86 82 52

PARIS 8^{ème} 11 rue Royale Tél : 01 47 42 82 66

BORDEAUX 5 cours de l'Intendance Tél : 05 56 52 02 80

LILLE 44 rue Grande Chaussée Tél : 03 28 38 17 07

LIMOGES 27 avenue Albert Thomas Tél : 05 55 10 21 86

LYON 2^{ème} 15 rue des Archers Tél : 04 72 41 05 76

MARSEILLE 112 rue Paradis Tél : 04 91 37 62 34

STRASBOURG 26 rue de la Mésange Tél : 03 88 23 09 99

NEW YORK 499 Park Avenue Tel : +1 800 884 7775

CHICAGO 900 N. Michigan Avenue Tel : +1 800 884 7775

www.bernardaud.fr

COUVERTURE : BRACELET FÉROË CORAIL

FRONT COVER : FÉROË BRACELET CORAL

in USD

R= Retail
C= Corporate

HC= House Corporate
HR= House Retail

IDENTITY OF CUSTOMERS
HAS BEEN REDACTED

REDACTED

EXHIBIT 2

[illegible]

in USD

R= Retail
C= Corporate

HC= House Corporate
HR= House Retail

		YTD	
Sales 2005	Sales 2006	05/31/07	
14,125	14,125	14,125	14,125
8	8	8	8
5	5	5	5
7	7	7	7
0	0	0	0
5	5	5	5
2	2	2	2
2	2	2	2
1	1	1	1
9	9	9	9
9	9	9	9
2	2	2	2
4	4	4	4
0	0	0	0
1	1	1	1
8	8	8	8
4	4	4	4
1	1	1	1
0	0	0	0
0	0	0	0
0	0	0	0
6	6	6	6
6	6	6	6
2	2	2	2
5	5	5	5
1	1	1	1
4	4	4	4
8	8	8	8
0	0	0	0
2	2	2	2
2	2	2	2
8	8	8	8
9	9	9	9
0	0	0	0
1	1	1	1
2	2	2	2
4	4	4	4
2	2	2	2
1	1	1	1
0	0	0	0
8	8	8	8
5	5	5	5
8	8	8	8
9	9	9	9
0	0	0	0
5	5	5	5
1	1	1	1
9	9	9	9
7	7	7	7
1	1	1	1
3	3	3	3
2	2	2	2
0	0	0	0
0	0	0	0
17,400	17,400	17,400	17,400

REDACTED

in USD

R= Retail
C= Corporate

HC= House Corporate
HR= House Retail

		YTD
Sales 2005	Sales 2006	05/31/07
[REDACTED]		

REDACTED

in USD

R= Retail
C= Corporate

HC= House Corporate
HR= House Retail

YTD		
Sales 2005	Sales 2006	05/31/07
[REDACTED]		

REDACTED

in USD

R= Retail
C= CorporateHC= House Corporate
HR= House Retail

		YTD
Sales 2005	Sales 2006	05/31/07
[REDACTED]		

REDACTED

R= Retail
C= Corporate

HC= House Corporate
HR= House Retail

	Sales 2005	Sales 2006	YTD 05/31/07
	[REDACTED]	[REDACTED]	[REDACTED]

REDACTED

in USD

R= Retail
C= CorporateHC= House Corporate
HR= House Retail

		YTD
Sales 2005	Sales 2006	05/31/07
[REDACTED]		

REDACTED

R= Retail
C= Corporate

HC= House Corporate
HR= House Retail

[illegible]

REDACTED

in USD

R= Retail
C= CorporateHC= House Corporate
HR= House Retail

		YTD
Sales 2005	Sales 2006	05/31/07
[REDACTED]		

REDACTED

R= Retail
C= Corporate

HC= House Corporate
HR= House Retail

	Sales 2005	Sales 2006	YTD 05/31/07

REDACTED

R= Retail
C= Corporate

HC= House Corporate
HR= House Retail

	Sales 2005	Sales 2006	YTD 05/31/07

REDACTED

R= Retail
C= Corporate

HC= House Corporate
HR= House Retail

	Sales 2005	Sales 2006	YTD 05/31/07

REDACTED

in USD

R= Retail
C= Corporate

HC= House Corporate
HR= House Retail

YTD		
Sales 2005	Sales 2006	05/31/07

REDACTED

TOTAL SALES

CA BIJOUX US 2004-2005-2006-2007

	2004	2005	2006	2007	2004	2005	2006	2007
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
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66								
67								
68								
69								
70								
71								
72								
73								

REDACTED

EXHIBIT 3